tolerance. In particular, EPA needs additional information in the areas of validation of the residue method to support claims for a more sensitive method, cold storage dissipation, and the nature of the residue (bound vs. free residue). EPA has discussed these deficiencies with the petitioners and has asked them to submit additional data. The generation and review of these data will take at least 9 months.

Since the health effect of concern is sulfite sensitivity, no additional animal toxicity data are required under 40 CFR 158.135 to support this petition, or the registration of sulfur dioxide pesticide products, including gas and sulfite-containing pads. If EPA receives information indicating health concerns other than sulfite sensitivity, a reevaluation of the toxicological data base for sulfites will be undertaken.

The absence of a tolerance for residues of sulfur dioxide on grapes poses an immediate problem for the Chilean table grape importers who have been treating grapes with sulfiting agents for over a decade. Without treatment with sulfiting agents, it may be difficult for most grape shipments from Chile to arrive at United States ports in acceptable condition. Chilean grapes represent 20 to 30 percent of the fresh table grapes consumed in the United States and supplement the California grape supply, providing a year-round supply of this commodity to the American consumer.

The Chilean exporters and the producers of sulfite-containing pads have submitted information to EPA since they filed their tolerance petition that they believe demonstrates that, at time of entry into the United States, sulfite-treated grapes will have residues of less than 10 ppm sulfur dioxide as determined by the modified Monier-Williams method. This is the official method of the Association of Official Analytical Chemists and is used by FDA for its enforcement procedures as set forth in 21 CFR 101.100(a)(4).

In order to alleviate risk concern about sulfite sensitive reactions, while permitting the shipment of sulfite-treated grapes into and within the United States, EPA in consultation with FDA has developed an approach incorporating the following measures:

1. Residues of sulfites (determined as sulfur dioxide) on grapes must be below the current level of detection, i.e., less than 10 ppm when the grapes are offered for entry into the United States or are otherwise introduced into interstate commerce.

2. The shipping containers of both foreign and domestic grapes must be provisions of the Federal Food, Drug, and Cosmetic Act section 403(l) which requires shipping containers to be labeled when a raw agricultural commodity has received post-harvest pesticide treatment.

3. EPA requires domestic and foreign shippers to have a certification program acceptable to FDA to assure that residue levels will be less than 10 ppm. In most circumstances, shipments must be accompanied by a valid certificate of analysis documenting that the grapes do not contain detectable levels of sulfur dioxide. FDA will monitor this program to assure compliance.

4. Any shipment found to have detectable levels of sulfur dioxide residues (10 ppm or higher) will be deemed to be adulterated and subject to seizure or detention by FDA.

5. Any shipment of sulfite-treated grapes not covered by a certification program will be deemed to be adulterated and subject to seizure or detention by FDA.

EPA is aware that there may be some risks to sulfite sensitive individuals from the presence of low levels of sulfites in grapes; however, EPA believes that the measures announced in this notice will minimize this risk. In establishing this policy, EPA has given consideration to the importance of a year-round supply of grapes, the economic impact which would result from a curtailment of grape shipments, the many years that sulfites have been used to treat grapes without evidence of adverse effects, and the fact that only a discrete segment of the population is sulfite sensitive. Therefore, EPA has concluded based on current information the benefits from the use of sulfiting agents on grapes outweigh any risk associated with their use.

This policy is an interim measure to permit shipment of sulfite-treated grapes for one year, and takes effect immediately. During this period EPA and FDA will work jointly to assure that the foreign and domestic grape shippers adhere to this policy. In addition, EPA will move quickly to consider the establishment of a permanent tolerance for sulfur dioxide in or on grapes and registration under section 3 of FIFRA of sulfite pesticide products for the 1988 season.

Dated: December 24, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86-29489 Filed 12-30-86; 8:45 am]

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40 CFR Part 761

[OPTS-62035E; FRL-3136-4]

Polychlorinated Biphenyls; Clarification of Use of Electrical Transformers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Interpretation of Tranformer Fire Regulations.

SUMMARY: This notice clarifies several provisions of the EPA's regulations governing the use of electrical transformers containing polychlorinated biphenyls (PCBs). These clarifications/interpretations were requested by Mississippi Power Company (hereafter, Mississippi Power) in the context of settlement negotiations with EPA following the filing of a petition for review of the PCB Transformer Fires regulations published in the **Federal Register** of July 17, 1985 (50 FR 29170).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

The Environmental Protection Agency issued a final rule, published in the **Federal Register** of July 17, 1985 (50 FR 29170), amending the PCB Electrical Use Rule, published in the **Federal Register** of August 25, 1982 (47 FR 37342). The July 17, 1985 rule (hereafter, the PCB Transformer Fires Rule) placed additional restrictions and conditions on the use of PCB Transformers, particularly PCB Transformers located in or near commercial buildings. After the promulgation of the PCB Transformer Fires Rule, Mississippi Power filed a petition for review of the rule. During settlement negotiations with EPA, Mississippi Power raised 10 questions seeking clarification of various provisions of the PCB Transformer Fires Rule. EPA agreed to provide answers to these 10 questions and to issue the 10 questions and the answers to these questions for publication in the **Federal Register.**

The 10 questions concern: (1) The PCB Transformer registration requirements; (2) the requirement for the removal of stored combustibles; (3) the requirement for the reporting of fire-related incidents to the National Response Center; (4) the definition of commercial building; (5) the status of mineral oil transformers which

are found to contain over 500 parts per million (ppm) PCBs; (6) the ban on the installation of PCB Transformers in or near commercial buildings; and (7) the requirement for the labeling of the exterior of PCB Tranformer locations.

II. Questions and EPA Responses

A. PCB Transformer Registration Requirements

1. *Statement of requirement.* 40 CFR 761.30(a)(1)(vii) requires that:

As of December 1, 1985, PCB Transformers in use in or near commercial buildings must be registered with building owners. For PCB Transformers located in commercial buildings, PCB Transformer owners must register the transformers with the building owner of record. For PCB Transformers located near commercial buildings, PCB Transformer owners must register the transformers with all owners of buildings located within 30 meters of the PCB Transformer(s). Information required to be provided to building owners by PCB Transformer owners includes, but is not limited to:

(A) The specific location of the PCB Transformer(s).

(B) The principal constituent of the dielectric fluid in the transformer(s) (e.g., PCBs, mineral oil, silicone oil).

(C) The type of transformer installaton (e.q., 208/120 volt network, 208/120 volt radial, 208 volt radial, 480 volt network, 480/277 volt network, 480 volt radial, 480/277 volt radial).

2. *Questions and answers regarding the registration requirement—Question 1.* Does the owner of a PCB Transformer have to register a PCB Transformer located within the interior of, on the roof of, or attached to the exterior wall of a building with all building owners within 30 meters of the transformer?

Answer. Transformers located within the interior of buildings are only required to be registered with the building owner where the transformer is located. PCB Transformers attached to buildings, including those on roof tops, must be registered with all building owners of buildings within 30 meters of the PCB Transformer.

Question 2. For purposes of compliance with 40 CFR 761.30 (a)(1)(vii), is it sufficient to register a PCB Transformer with a building's property manager or managing agent in cases where determining the building owner of record would involve title searches, and with the building owner's association or managing agent when a condominium is involved?

Answer. Yes, registration of a PCB Transformer with the property manager, managing agent, or building owner's association under the circumstances described would be acceptable for compliance monitoring purposes. The principle objective of requiring building owner registration is to educate persons responsible for the operation of buildings. EPA did not assume that the costs involved in completing this registration would include conducting a title search. EPA believes that if persons responsible for operating buildings are aware that a fire in their building involves a PCB Transformer that it will be less likely for the building to be prematurely reopened for occupancy. Registration of PCB Transformers with a building's property manager or managing agent (in situations where the building owner is not readily identifiable) is acceptable and accomplishes the objective of the registration requirement.

Similarly, in the case of condominiums, EPA did not assume that a utility would be required to register a single transformer with hundreds of owners. Registration of PCB Transformers with the condominium owners association or managing agent is acceptable and accomplishes the objective of the registration requirement.

B. Removal of Stored Combustibles Requirement

1. *Statement of requirement.* 40 CFR 761.30(a)(1)(viii) requires that:

As of December 1, 1985, combustible materials, including, but not limited to paints, solvents, plastics, paper, and sawn wood must not be stored within a PCB Transformer enclosure (i.e., in a transformer vault or in a partitioned area housing a transformer); within 5 meters of a transformer enclosure, or, if unenclosed (unpartitioned), within 5 meters of a PCB Transformer.

2. *Questions and answers regarding the removal of stored combustibles requirement—Question 3.* Does the provision restricting the storage of combustibles within 5 meters of a PCB Transformer or an enclosure containing such a transformer (40 CFR 761.30(a)(1)(viii)) apply when the combustible materials are within 5 meters of the PCB Transformer or its enclosure but are separated from the PCB Transformer or its enclosure by a wall?

Answer. EPA has required that combustibles not be stored within 5 meters of an enclosure containing a PCB Transformer to prevent persons from simply moving stored combustible from inside an enclosure to the other side of the enclosure. EPA believed that the moving of stored combustibles in this manner would do little to reduce the risk of the stored combustible starting a fire or feeding a fire involving a PCB Transformer. However, implicit in this was an assumption that the enclosure itself would not prevent a barrier to fire. For PCB Transformer fires, EPA believes that under certain circumstances a wall could present an adequate barrier to fire. However, the wall must be constructed in a manner which would reduce the risk of stored combustibles starting a fire or feeding a fire involving a PCB Transformer. For example, a 2 to 3 hour fire-rated enclosure could reduce such a risk. If a wall presents a similar barrier to fire, the 5 meter rule would not apply.

Question 4. Does the removal of stored combustibles requirement apply to bulk storage of fuel, such as gasoline, heating oil, and natural gas?

Answer. No. The Agency did not intend that the removal of stored combustibles requirement apply to bulk fuel storage. In some regions, local fire codes dictate that PCB equipment be used in such areas because of the risks of catastrophic explosions and fires in the event of a fire in the electrical equipment.

C. Requirement for the Reporting of Fire-Related Incidents

1. *Statement of requirement.* 40 CFR 761.30(a)(1)(xi) requires, among other things, that:

If a PCB Transformer is involved in a fire-related incident, the owner of the transformer must immediately report the incident to the National Response Center (toll-free 1-800-424-8802; in Washington, DC 202-426-2675). A fire-related incident is defined as any incident involving a PCB Transformer which involves the generation of sufficient heat and/or pressure (by any source) to result in the violent or non-violent rupture of a PCB Transformer and the release of PCBs. . . .

2. *Question and answer regarding the reporting requirement—Question 5.* Does the requirement for the reporting of fire-related incidents apply to situations where PCBs have been spilled but no fire is present?

Answer. No. EPA recognizes that the term fire-related incident covers a broad spectrum of incident types. In defining "fire-related incident" broadly, EPA intended to have been seemingly minor "fires" reported. This is because even following "minor" incidents, polychlorinated dibenzofurans (PCDFs) have been found, sometimes in areas remote from the transformer location. EPA does recognize, however, that small leaks and spills do occur and that these leaks and spills are not associated with electrical faults or transformer rupture. These are not fire-related incidents and are not required to be reported as such. Small releases (less than 1 gallon of PCBs) from pressure relief devices are

also not considered to be fire-related incidents.

D. The Definition of Commercial Building

1. *Statement of the definition.* In 40 CFR 761.3, "in or Near Commercial Buildings" is defined as:

> . . . within the interior of, on the roof of, attached to the exterior wall of, in the parking area serving, or within 30 meters of a non-industrial, non-substation building. Commercial buildings are typically accessible to both members of the general public and employees, and include: (1) Public assembly properties, (2) educational properties, (3) institutional properties, (4) residential properties, (5) stores, (6) office buildings, and (7) transportation centers (e.g., airport terminal buildings, subway stations, bus stations, or train stations).

2. *Question and answer regarding the definition of commercial building—Question 6.* How many units must there be in a residence for it to be considered a "commercial" building?

Answer. The definition of "commercial" building includes residential properties (e.g., apartments, hotels, dormitories, condominiums). In promulgating the rule, EPA was concerned with residential properties where groups of people live and not really single family homes and the like. Thus, all residential properties (notwithstanding the number of units involved) are covered by the rule, except single family homes.

Question 7. If a generating station or electrical substation has a few offices within the station, does this mean that the station is considered a "commercial" building?

Answer. No. PCB Transformers used in or near office buildings are operated in a fundamentally different manner from transformers used in or near industrial facilities and electrical substations. PCB Transformers used in or near commercial buildings are typically configured in a network fashion and are (currently) not typically equipped with special protective equipment such as current-limiting fuses or temperature/pressure sensors and disconnect equipment. The number of people potentially at risk of exposure is much higher in commercial buildings than in industrial facilities and electrical substations. EPA recognizes that industrial facilities and electrical substations may have a few offices on site used by workers responsible for monitoring plant/substation operations. The fact that an industrial facility or electrical substation may have a few such offices does not mean that the facility is considered a commercial building. However, if there is a building, such as an office building, on the site which is dedicated to uses other than the direct monitoring of plant/substation operations, these office buildings are considered to be commercial buildings. In situations where a building is clearly used for dual purposes, i.e., a substantial number of floors or amount of square footage is dedicated to other than the manufacture or storage of products, then the location must be carefully evaluated relative to the following:

a. Is the PCB Transformer in or near the building located in an area where it is clearly visible to workers during the routine conduct of their work? Commercial transformers are more likely to be in areas such as basements and sidewalk/underground vaults rather than in easily visible locations.

b. Is there disconnect equipment on site which provides the capability to de-energize the transformers from the location and are there people present who have been trained in the procedures for deenergizing the transformer? Commercial transformers are less likely to be able to be de-energized from an on-site location, and it is less likely that trained personnel are around to provide for the de-energization.

c. Is access to the building restricted? Commercial buildings are typically readily accessible to both members of the general public and workers.

E. The Status of Mineral Oil Transformers

1. *Statement of the requirement.* Under "PCB-Contaminated Electrical Equipment" in 40 CFR 761.3, "Oil-filled electrical equipment other than circuit breakers, reclosers, and cable whose PCB concentration is unknown must be assumed to be PCB-Contaminated Electrical Equipment. . ." (PCB-Contaminated Electrical Equipment means equipment containing 50–500 parts per million (ppm) PCBs).

2. *Question and answer regarding the status of mineral oil transformers—Question 8.* What is the regulatory status of a mineral oil transformer which is tested after the effective date of a phaseout requirement (or electrical protection requirement) and is found to contain over 500 ppm PCBs?

Answer. This issue is not unique to the PCB Transformer Fires Rule. For example, there is a PCB Transformer phaseout requirement in the August 25, 1982 PCB Electrical Equipment Rule for PCB Transformers (defined as transformers containing over 500 ppm PCBs) which pose an exposure risk to human food or animal feed. Since the regulations "allow" owners of mineral oil transformers which in reality may contain over 500 ppm PCBs to assume that these transformers are PCB contaminated, the discovery (after the effective date for phaseout or electrical protection) that a mineral oil transformer is a PCB Transformer does not (alone) mean that the transformer has been used in violation of the PCB regulations. But, once such a determination is made, efforts must be initiated immediately to bring the transformer into compliance in accordance with the following schedule:

a. Reporting of fire-related incidents: effective immediately after discovery.

b. Marking of the transformer: effective immediately after discovery.

c. Marking the vault door, machinery room door, fence, hallway or other means of access to the PCB Transformer: effective immediately after discovery.

d. Registering the PCB Transformer with fire response personnel with primary jurisdiction and with the building owner: Within 30 days of discovery.

e. Installation of electrical protective equipment on radial PCB Transformers and non-sidewalk vault, lower secondary voltage network transformers in or near commercial buildings: within 18 months of discovery or by October 1, 1990, whichever is later.

f. Removal of non-sidewalk vault, lower secondary voltage network transformers in or near commercial buildings if electrical protective equipment is not installed: within 18 months of discovery or by October 1, 1993, whichever is later.[1]

g. Removal of lower secondary voltage network PCB Transformers (located in sidewalk vaults) in or near commercial buildings: within 18 months of discovery or by October 1, 1993, whichever is later; [1]

h. Retrofill and reclassification of a radial PCB Transformer or a lower or higher secondary voltage network PCB Transformer (located in other than sidewalk vaults) in or near a commercial building: within 18 months or by October 1, 1990, whichever is later (this is an option in lieu of other requirements).

i. Retrofill and reclassification of a lower secondary voltage network PCB

[1] EPA is in the process of proposing an amendment to the PCB Transformer Fires Rule which would allow owners of lower secondary voltage network PCB Transformers (located in or near commercial buildings) an alternative to electrical protection by 1990. The alternative that EPA is considering proposing is removal of these transformers by October 1, 1993. Should EPA fail to promulgate this amendment, the operative date will be October 1, 1990.

Transformer (located in sidewalk vaults) in or near a commercial building: within 18 months or by October 1, 1993, whichever is later.[1]

F. The Ban on the Installation of PCB Transformers

1. *Statement of the requirement.* 40 CFR 761.30(a)(1)(iii) provides that: "As of October 1, 1985, the installation of PCB Transformers (which have been placed into storage for reuse or which have been removed from another location) in or near commercial buildings is prohibited."

2. *Question and answer regarding the ban on installation of PCB Transformers—Question 9.* Does the prohibition on installation of PCB Transformers after October 1, 1985 apply to installation in emergency situations when an alternative transformer is unavailable or where reclassification after retrofilling is involved?

Answer. The objective of the prohibition on the installation of PCB Transformers after October 1, 1985, is to: (1) Stop the installation of PCB Transformers in newly constructed buildings, (2) stop the installation of PCB Transformers in locations where they are presently not being used, and (3) stop the installation of PCB Transformers to replace PCB Transformers which have failed. However, in its assessment of the impact of item (3) above, EPA assumed that transformers other than PCB Transformers would be available for installation. EPA did not assume that one potential impact of the prohibition could be the denial of electrical service to utility customers following the failure of a transformer in the system. EPA perceives the problem of having only PCB Transformers available for installation to be a short-term problem. As soon as replacement transformers are available or retrofill and reclassification occurs, there will be no real possibility that compliance with this prohibition would result in denial of electric service to utility customers. EPA is in the process of issuing a proposed amendment to the October 1, 1985, prohibition to allow installation on an emergency basis until October 1, 1990, and the use of emergency installed PCB Transformers for one year from the date of installation or until October 1, 1990, whichever is earlier. An "emergency" would exist for purposes of this rule when no appropriate non-PCB or PCB contaminated transformer is available and there is not enough time to order new transformers or to retrofill the existing equipment and have it available for emergency use.

In addition, EPA recognizes the prohibition against installation of PCB Transformers may seriously impede the reclassification of many PCB Transformers. Therefore, EPA is in the process of issuing a proposed amendment to the October 1, 1985, prohibition to allow installation of retrofilled PCB Transformers after 1985 only for purposes of reclassification, as specified in 40 CFR 761.30(a)(2)(v).

G. The Labeling of PCB Transformer Locations

1. *Statement of the requirement for the labeling of the exterior of PCB Transformer locations.*

40 CFR 761.40(j) requires that: "As of December 1, 1985, the vault door, machinery room door, fence, hallway, or means of access (other than grates and manhole covers) to a PCB Transformer must be marked with the mark M_L. The mark must be placed so that it can be easily read by firemen fighting a fire involving this equipment."

2. *Question and answer regarding the requirement for the labeling of PCB Transformer locations—Question 10.* Are labeling systems devised prior to the rule adequate for compliance purposes?

Answer. The purpose of labeling the exterior of PCB Transformer locations is to provide emergency response personnel with warning that a PCB Transformer may be involved in a fire that they have been asked to extinguish. EPA required the use of one type of label to provide consistency and to facilitate compliance monitoring efforts. EPA required the use of the PCB identification label because EPA assumed that most PCB Transformer owners had these labels already and would not have to make special purchases.

EPA does not want to unfairly penalize owners who have taken the initiative and have already labeled exterior locations. EPA, therefore, is in the process of issuing a proposed amendment to permit the continued use of an alternative label if several conditions have been met. These include initiation of the program before August 15, 1985; coordination prior to that time between the owner and the emergency response personnel affected; the appropriate emergency response personnel's recognition of what the alternative mark means; and the Regional Administrator has been provided with information that these conditions have been met.

III. Record to Support Clarifications/ Interpretations

1. Official rulemaking record from "Polychlorinated Biphenyls in Electrical Transformers, Final Rule, published in the **Federal Register** of July 17, 1985 (50 FR 29170).

2. USEPA, OPTS, EED, Evaluation of the Suffiency of Current and Projected PCB Disposal Capacity To Meet Demand Requirements. July 10, 1986. Prepared under Contract #68-02-4235 by Putnam, Hayes & Bartlett, Inc.

3. Correspondence.

The record is available for review and copying in Room NEG009 of the EPA Headquarters at the address given above.

List of Subjects in 40 CFR Part 761

Hazardous substances, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: December 23, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-29355 Filed 12-30-86; 8:45 am]

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